



UNITED STATES DEPARTMENT OF COMMERCE

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Robert M. Fetsuga

| APPLICATION NO. | FILING DATE | FIRST-NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/052,175 03/31/98 SHAFIK

A 56733

EXAMINER

QM51/0105

FETSUGA, R

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BURKE, VA 22015

ART UNIT

PAPER NUMBER

3751

DATE MAILED:

01/05/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/052,175

Applicant(s)
Shafik

Examiner
Robert M. Fetsuga

Group Art Unit
3751



☒ Responsive to communication(s) filed on Mar 31, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) 19 and 20 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-4 and 10 is/are rejected.

☒ Claim(s) 5-9 and 11-18 is/are objected to.

☒ Claims 1-20 are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Mar 31, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18, drawn to an accessory kit, classified in class 206, subclass 223.
- II. Claim 19, drawn to a brush, classified in class 15, subclass 105.
- III. Claim 20, drawn to a plunger, classified in class 4, subclass 255.11.

The inventions are distinct, each from the other because:

Inventions I and II,III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because claim 1 does not contain the limitations of claims 19 or 20. The subcombination has separate utility such as separate from a holder.

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to

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be separately usable. In the instant case, invention III has separate utility such as with a sink. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification which would lead to divergent fields of search, restriction for examination purposes as indicated is proper.

2. During a telephone conversation with Dennis H. Lambert on November 25, 1998 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19 and 20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The drawings are objected to because character "26A" (pg. 6 ln. 30) is missing therefrom. Correction is required.

Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must consist of two parts:

a) A separate letter to the Draftsman in accordance with MPEP § 608.02(r); and

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b) A print or pen-and-ink sketch showing changes in *red ink* in accordance with MPEP § 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tupper in view of Wanek.

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The Tupper reference discloses an accessory kit comprising: a holder 12 including a divider 24 having a handle 26. Therefore, Tupper teaches all claimed elements except for the provision of a brush and plunger.

Although the holder of the Tupper cleaning supply kit does not include a brush and plunger, as claimed, attention is directed to the Wanek reference which discloses an analogous cleaning supply kit which further includes a holder having a brush 40 and plunger 13. Therefore, in consideration of Wanek, it would have been obvious to one of ordinary skill in the art to associate a brush and plunger with the Tupper cleaning supply kit in order to facilitate storage of the cleaning implements.

6. Claims 1-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Denton in view of Wanek.

The Denton reference discloses a an accessory kit comprising: a holder 12 including a divider 46 having a handle 38; and a cover 10. Therefore, Denton teaches all claimed elements except for the provision of a brush and plunger.

To associate a brush and plunger with the Denton cleaning supply kit would have been obvious to one of ordinary skill in the art in consideration of Wanek analogous to the discussion supra.

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7. Claims 5-9 and 11-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number (703) 308-1506.



ROBERT M. FETSUGA
PRIMARY EXAMINER
ART UNIT 3751

rmf
December 1, 1998